



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE
LANSING

COL. KRISTE KIBBEY ETUE
DIRECTOR

DEC 11 2012

MR SHAWN MUSGRAVE
DEPT MR 2236
P O BOX 55819
BOSTON, MA 02205-5819

RE: CR-61702-13,

Dear MR MUSGRAVE:

The department has received your request for certain records and has processed it under the provisions of the Michigan Freedom of Information Act (FOIA), MCL 15.231 et seq.

The records you have requested have been:

☐ Granted.

☐ Granted in part and denied in part. Portions of your request are exempt from disclosure based on provisions set forth in the Act. (See comments on the back of this letter.) Under the FOIA, Section 10 (a copy of which is enclosed), you have the right to appeal to the head of this public body or to a judicial review of the denial.

☒ Denied. (See comments on the back of this letter.) Under the FOIA, Section 10 (a copy of which is enclosed), you have the right to appeal to the head of this public body or to a judicial review of the denial.

☐ The documents you requested are enclosed. Please pay the amount of \$_____.

☐ Please pay the amount of \$_____. Once we receive payment the documents will be mailed to you.

Checks or money orders should be made payable to the STATE OF MICHIGAN and mailed to the address below. To ensure proper credit, please enclose a copy of this letter with your payment.

If you have questions concerning this matter, please feel free to contact our office at the address below, and enclose a copy of this correspondence.

Sincerely,

Judy Fox
Assistant FOIA Coordinator
Michigan State Police

DENIAL OF RECORDS:

Denial is based on the following provision(s) of the Freedom of Information Act. MCL 15.243, Sec. 13(1). (All that apply will be checked.)

- ☐ (a) Information of a personal nature where the public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.
☐ telephone number(s) ☐ address(es) ☐ date(s) of birth ☐ physical characteristics ☐ driver license number(s)
☐ other _____
- ☐ (b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure would do any of the following:
☐ (i) Interfere with law enforcement proceedings.
☐ (ii) Deprive a person of the right to a fair trial or impartial administrative adjudication
☐ (iii) Constitute an unwarranted invasion of personal privacy.
☐ (iv) Disclose the identity of a confidential source, or if the record is compiled by a law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source.
☐ (vi) Endanger the life or physical safety of law enforcement personnel.
- ☐ (d) Records or information specifically described and exempted from disclosure by statute.
Statute: _____
- ☐ (m) Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action.
- ☐ (n) Records of law enforcement communication codes, or plans for deployment of law enforcement personnel, that if disclosed would prejudice a public body's ability to protect the public.
- ☐ (s) Unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, public records of a law enforcement agency, the release of which would do any of the following:
☐ (i) Identify or provide a means of identifying an informer.
☐ (ii) Identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.
☐ (viii) Identify or provide a means of identifying a person as a law enforcement officer, agent, or informer.
☐ (ix) Disclose personnel records of law enforcement agencies.
- ☐ (u) Records of a public body's security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the public body.
- ☐ (w) Information or records that would disclose the social security number of any individual.
- ☐ Your request is denied under the authority of Section 13(1)(a) above. However, if you provide a notarized, signed release of information from the individual to whom the records pertain, you will receive that information to which the individual signing the release is entitled.

☒ To the best of the Department's knowledge, information, and belief, under the information provided by you or by any other description reasonably known to the Department, the public records do not exist within the Department.

- ☐ Based on the information you provided, we are unable to locate any records pertaining to the incident you described. In order for us to continue processing your request, please comply with the following items. To ensure proper handling of your request, please include a copy of this letter with your response.
- ☐ Specific location (i.e. city, county.)
 - ☐ Michigan State Police incident number
 - ☐ Names of those involved in the incident
 - ☐ Specific dates (i.e., date of incident)
 - ☐ Name of driver and their birth date or driver license number
 - ☐ Date of birth
- ☐ The report you have requested has not yet been completed and filed. Please resubmit your request in 30 days.

Additional Comments:

FREEDOM OF INFORMATION ACT (EXCERPT)
Act 442 of 1976

15.240 Options by requesting person; appeal; orders; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.

Sec. 10.

(1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence an action in the circuit court to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing an action in circuit court under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. The circuit court for the county in which the complainant resides or has his or her principal place of business, or the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the circuit court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

History: 1976, Act 442, Eff. Apr. 13, 1977 ;-- Am. 1978, Act 329, Imd. Eff. July 11, 1978 ;-- Am. 1996, Act 553, Eff. Mar. 31, 1997

Popular Name: Act 442

Popular Name: FOIA

